



**Environmental Water Program Steering Committee
Briefing Paper No. 6**

**CALFED Commitments and Baseline Conditions
Relevant to the Environmental Water Program**

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ATTACHMENT 1. IMPLEMENTATION COMMITMENTS

INTRODUCTION

This briefing paper has been prepared to assist those helping to formulate the Environmental Water Program (EWP) to understand relevant commitments made by CALFED agencies in the Ecosystem Restoration Program Plan (ERPP), including the Strategic Plan, and the CALFED Record of Decision (ROD). This briefing paper will direct the reader to the relevant portions of the ERPP and Strategic Plan that contain the goals and objectives that the EWP is intended to accomplish, along with general information about the extent and location of potential water acquisitions for Stage 1. This briefing paper will also highlight some of the issues that have already been discussed and decided by the CALFED agencies in prior documentation and will help focus deliberations on areas where decisions have not yet been made.

I. PURPOSE AND DESCRIPTION OF THE ENVIRONMENTAL WATER PROGRAM

The purpose of the EWP is to acquire water to assist in carrying out the goals of the ERPP. According to the ROD, representative ERPP actions include:

- acquiring water from sources throughout the Bay-Delta's watershed to provide flows and habitat conditions for fishery protection and recovery;
- restoring critical instream and channel-forming flows in Bay-Delta tributaries; and
- improving Delta outflow during critical periods. (ROD, page 19.)

The elements of the EWP are contained in the ERPP and the Strategic Plan for Ecosystem Restoration. Jones & Stokes is compiling a summary of the relevant elements of the ERPP and Strategic Plan that will help distill this body of information. It is useful to reference the source documents for a better understanding of the ERPP and the role of environmental water acquisition in achieving ERPP goals and objectives.

Volume 1 of the ERPP contains visions for the following "Ecological Processes" that are relevant to the EWP:

Central Valley Streamflows (pages 53–61)
Central Valley Stream Temperatures (pages 62–70)
Coarse Sediment Supply (pages 71–79)
Stream Meander (pages 80–86)
Natural Floodplains and Flood Processes (pages 87–94)
Bay-Delta Hydrodynamics (pages 95–99)
Bay-Delta Aquatic Foodweb (pages 100–106)

Each of the visions contains objectives, targets, actions, and measures, including expectations

for Stage 1. Volume 1 of the ERPP also contains visions for at-risk species including fish species (ERPP Vol. 1, pages 194–268).

Volume 2 of the ERPP contains additional information on Ecological Processes by ecological management zone. The restoration targets and programmatic action descriptions for each of the ecological processes will guide development of the EWP. (ERPP Vol. 2, generally).

The Strategic Plan for Ecosystem Restoration also provides important information relevant to the EWP. For example, the Strategic Plan contains, among other things:

- a commitment to ecosystem-based management and adaptive management (Strategic Plan, chapters 2-3);
- consensus principles developed by the ERPP Focus Group to guide prioritization of ecosystem restoration activities (Strategic Plan, page 45);
- draft project selection criteria for prioritizing and selecting Stage 1 ERPP actions (Strategic Plan, pages 47–51); and
- a commitment to addressing critical uncertainties and impediments to restoration, including those surrounding natural flow regimes (Strategic Plan, pages 56-58).

Chapter 5 of the Strategic Plan addresses Stage 1 implementation. “The Stage 1 action plan for the ERPP will include restoration actions that are technically, economically, and politically feasible to implement in the first 7 years of the restoration program. . .” (Strategic Plan, page 44). The focus of Stage 1 is “to implement those restoration actions that, based on current assumptions and hypotheses about ecosystem structure and dynamics, will provide the greatest ecological benefits within existing constraints (such as large water supply and flood control dams), thereby improving the environmental baseline for future stages of restoration.” (Strategic Plan, page 44).

Appendix D to the Strategic Plan lists Stage 1 actions, a logical starting point for pilot projects for the EWP. Stage 1 actions include water acquisitions on Deer Creek, Clear Creek, Mill Creek, Battle Creek, and Butte Creek, as well as the Tuolumne River and mainstem San Joaquin River. (Strategic Plan, Appendix D, pages D-20, D-24, D-25, D-27, D-30, D-38, D-41).

II. RELEVANT CONSIDERATIONS FROM WATER TRANSFER PROGRAM PLAN

As part of the activities implemented by the EWP to acquire water for habitat and instream beneficial uses, program managers will coordinate their activities with the Water Transfer Program (WTP). The WTP, as described in the CALFED ROD, proposes a framework of actions, policies, and processes that, collectively, will facilitate water transfers and the further development of a statewide water transfer market. The framework also includes mechanisms to help provide protection from third party impacts.

The WTP will include the following actions and recommendations:

- Require water transfer proposals submitted to the Department of Water Resources, U.S. Bureau of Reclamation, or the State Water Resources Control Board to include analysis of potential groundwater, socioeconomic, or cumulative impacts as warranted by individual transfers.
- Clearly define carriage water requirements and resolve conflicts over reservoir refill criteria such that transfer proponents have a clear understanding of the implications of these requirements.
- Establish new accounting, tracking, and monitoring methods to aid instream flow transfers under California Water Code Section 1707.
- Increase the availability of existing facilities for water transfers.
- Lower transaction costs through permit streamlining

The ROD makes particular emphasis that activities conducted as part of the WTP must use the established criteria in the WTP, in conjunction with existing legal constraints on water transfers, to protect against adverse effects attributable to water transfers.

The criteria for future water transfer proposals include:

- Water transfers must be voluntary.
- Water market transactions must result in the transfer or exchange of water that truly increases the utility of the supply, not water that a transferor has never used or water that would have been legally available for downstream use in the absence of a transfer.
- Water rights of all legal water users must not be impaired.
- Entities receiving transferred water should be required to show that they are making efficient use of existing water supplies.
- Transfers must not harm fish and wildlife resources and their habitats.

- Transfers must not cause overdraft or degradation of groundwater basins, or impair correlative rights of overlying users.
- Water-rights holders (whether districts or individuals) must play a strong role in determining whether water to which they have a right is transferred.
- The beneficial and adverse impacts on fiscal integrity of the districts and on the economy of agricultural communities in source and receiving areas cannot be ignored

Activities conducted under the EWP for water acquisitions will be conducted primarily by CALFED programs. Furthermore, the CALFED WTP will be facilitating transfers that will take place with CALFED funding. Therefore, the established criteria for water transfers listed above will apply to EWP activities.

III. RELEVANT CONSIDERATIONS FROM OTHER PROGRAM DOCUMENTS FOR THE EWP DURING STAGE 1

Several documents in addition to the ERPP and the WTP Plan include the CALFED agencies' decisions regarding potential EWP actions during Stage 1:

The CALFED Record of Decision

The Record of Decision specifies that the ERPP will, "[i]mprove salmon spawning and juvenile survival in upstream tributaries as defined by the ERPP and Strategic Plan, by purchasing up to 100 TAF per year by the end of Stage 1. Some of these ERPP flows may contribute to the EWA." (Record of Decision, page 36.)

The Implementation Plan

The Implementation Plan contains Stage 1 Actions for each Program element, including the ERPP. For the ERPP, the Implementation Plan specifies that the Program will: "[p]ursue full implementation of ERPP upstream flow targets through voluntary purchases of at least 100,000 acre-feet by the end of Stage 1. Evaluate how the ERPP water acquisitions and EWA water acquisitions will be integrated most effectively." (Implementation Plan, pages 2–8.)

The Framework Document

Successful implementation of the ERPP will require habitat restoration, which will affect some agricultural lands. As an important feature of the State's environment and economy, agricultural lands will be preserved during implementation of the ERPP consistent with meeting program goals, minimizing impacts to agriculture. (Framework, page 7)

IV. COMMITMENTS IN THE ROD ON IMPLEMENTING CALFED ACTIONS

The CALFED agencies made numerous commitments for implementation of the CALFED Program in the ROD. These items are listed below and attached to this briefing paper. The full text of these items is contained on pages 32–35 of the ROD.

Local Leadership	Stakeholder Consultation
Environmental Justice	Tribal Consultation
Land Acquisition	CALFED Agency Coordination
Integration of Non-Signatory Agencies	Environmental Documentation
Permit Clearinghouse	Adaptive Management/Science
Compliance with Water Rights Laws	Project Operations
Coordinated Operation Agreement	

Specifically, the CALFED ROD commits CALFED Agencies to implementing a comprehensive ERPP throughout the Bay-Delta's watershed, consistent with the Strategic Plan for Ecosystem Restoration.

Also, activities of the EWP may result in impacts on a variety of stakeholders not represented during CALFED planning efforts. Third-party impacts may result from the transfer of water derived from fallowing land or other agricultural conversions. Of particular concern are potential third-party effects related to Environmental Justice. Consistent with federal and State authorities including Federal Executive Order 12898, Title VI of the Civil Rights Act of 1964 and recent State legislation, the CALFED Agencies are committed to addressing environmental justice challenges related to the management of water in the Bay-Delta watershed.

The ROD states that by the end of December 2000, the CALFED Agencies will collaborate with environmental justice and community stakeholders to develop a comprehensive environmental justice workplan across all program areas. This workplan will ensure that the CALFED Agencies develop the capacity and process to understand, monitor, and address environmental justice issues as the program moves into implementation, including identifying and developing specific methods to address and mitigate environmental justice impacts.

V. RELEVANT CONSIDERATIONS FROM THE PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT

The Programmatic EIS/EIR acknowledged that implementing the Ecosystem Restoration Program is likely to result in both beneficial and potentially significant adverse impacts on the environment. Similarly, the Programmatic EIS/EIR acknowledged the potential for the WTP to result in beneficial and significant adverse impacts to the environment to the extent it facilitates transfers. For significant adverse impacts in each resource area, the Programmatic EIS/EIR identifies suites of mitigation strategies to minimize or avoid adverse environmental impacts. The ROD includes Appendix A, which lists the mitigation strategies from the Programmatic EIS/EIR that the CALFED agencies adopted in the ROD. While the PEIS/EIR and ROD do not specifically address the potential impacts of the EWP, provided below is a list of some of the potential impacts that may result from implementing the EWP.

Impacts

Groundwater

- Changes in groundwater levels
- Increased demand for groundwater supplies
- Increased groundwater overdraft
- Increased land subsidence
- Increased degradation of groundwater quality from contaminant movement, salt water intrusion, or naturally poor-quality water drawn into the aquifer
- Impacts from groundwater recharge and storage system operations
- Increased degradation of groundwater quality from contaminant movement, saltwater intrusion, or naturally poor-quality water drawn into the aquifer
- Increases in local subsidence from potential increased reliance on groundwater use

Agricultural Land and Water Use

- Conversion of prime, statewide important and unique farmlands to project uses
- Conflicts with local government plans and policies
- Conflict with adjacent land uses
- Increases in wind and soil erosion and in soil salinity attributable to fallowed agricultural lands

Vegetation and Wildlife

- Temporary and permanent loss and degradation of wetland, riparian, and other natural communities
- Temporary or permanent loss of habitat or direct impacts on special-status species
- Permanent loss of incidental wetland and riparian habitats that depend on agricultural inefficiencies.

Resource areas from the Programmatic EIS/EIR that may be at issue in EWP actions include, but are not necessarily limited to: groundwater, vegetation and wildlife, fisheries and aquatic resources, agricultural land and water use, agricultural social issues, and agricultural economics. The Programmatic EIS/EIR impacts analysis and mitigation strategies for these resource areas can be found in sections 5.4, 6.1, 6.2, 7.1, 7.2, and 7.3 of that document. In addition, the mitigation strategies adopted by the agencies are included in the ROD in Appendix A and are listed by resource area.

CONCLUSION

Activities conducted by the ERPP and the EWP for ecosystem restoration and instream flows will result in a variety of beneficial and negative impacts as described above. While CALFED recognizes that some of the impacts may be both significant and unavoidable, strong commitments and mitigation measures have been established to avoid and/or minimize the deleterious effects of program activities. These commitments and mitigation measures do not prohibit activities or potentially resulting impacts, but rather provide a framework whereby public involvement is invited and impacts are lessened. Although the EWP is not identified specifically in the CALFED ROD or any of the supporting documents, the purpose of the EWP is to be an instrument to accomplish the goals of the ERPP.

Attachment 1

Implementation Commitments

Local Leadership. The CALFED Agencies will rely on leadership in local communities across the State to provide advice and support for implementing CALFED projects affecting their communities.

Stakeholder Consultation. The CALFED Agencies will continue to solicit and incorporate diverse stakeholder perspectives into its decisions and actions as they implement the CALFED Program. The Secretary of the Interior will charter a new Federal advisory committee and will consult with the Governor regarding membership of the new committee.

Environmental Justice. Consistent with Federal and State authorities including Federal Executive Order 12898, Title VI of the Civil Rights Act of 1964 and recent State legislation, the CALFED Agencies are committed to addressing environmental justice challenges related to the management of water in the Bay-Delta watershed. For example, it is important to examine the potential effects of water management reforms on rural communities and the public health and financial impacts of ERP and Water Quality Program actions on the large numbers of minorities and disadvantaged people living in urban as well as rural areas. The CALFED Program and its participating agencies are committed to seeking fair treatment of people of all races, cultures, and incomes, such that no segment of the population bears a disproportionately high or adverse health, environmental, social or economic impact resulting from CALFED's programs, policies, or actions. The CALFED Agencies will be responsible for ensuring this policy is carried out across all program areas through the development of environmental justice goals and objectives.

By the end of December 2000, the CALFED Agencies will collaborate with environmental justice and community stakeholders to develop a comprehensive environmental justice workplan across all program areas. This workplan will ensure that the CALFED Agencies develop the capacity and process to understand, monitor, and address environmental justice issues as the program moves into implementation, including identifying and developing specific methods to address and mitigate environmental justice impacts. This workplan should, at a minimum, include commitments such as the development of environmental justice goals and objectives for each program area, investments in staff and resources across program areas and agencies, development and implementation of an environmental justice education program for agency and program staff, collection and analysis of additional demographic information to assist in the identification of impacts, and actions to ensure effective participation on technical and advisory workgroups by those populations adversely impacted.

Tribal Consultation. Consistent with the President's April 29, 1994, Memorandum, the CALFED Agencies will assess the impact of CALFED project-specific plans, projects and activities on tribal trust resources and tribal government rights and concerns. The CALFED Agencies will actively engage federally recognized tribal governments in the planning and development of specific projects in their areas and will consult with such tribes on a government-to-government basis, to the greatest extent practicable and to the extent permitted by law, prior to taking actions that affect such tribal governments. At the request of any tribal government, the CALFED Agencies will enter into a Memorandum of Understanding with that tribal government or multiple tribal governments that will specify the process for how the federal, state and tribal governments will work together, on a government-to-government basis, in developing CALFED projects.

Land Acquisition. Successful implementation of the CALFED Program will affect some agricultural lands. As an important feature of the State's environment and economy, agricultural lands will be preserved during implementation of the Program in a manner consistent with meeting program goals, minimizing impacts to agriculture. Some of the land needed for program implementation is already owned by the Federal or State government and that land will be used to achieve program goals. Partnerships with landowners, including easements with willing landowners, will be pursued to obtain mutual benefits if public land is not available for the intended purpose. Acquisition of fee title to land will be from willing sellers only, and will be used when neither available public land nor partnerships are appropriate or cost-effective for the specific need. Such acquisitions will consider the potential for third-party and redirected impacts. In addition, to the maximum extent possible, the CALFED Agencies will seek to implement the Program through technical and financial assistance to locally based, collaborative programs such as the Sacramento River Conservation Area/SB 1086 program.

CALFED Agency Coordination. The CALFED Bay-Delta Program has established an important precedent in coordinated and cooperative State and Federal agency relationships. These improved institutional relationships are expected to extend to other programs in which these agencies continue to have roles. Other programs include those developed to address statewide water supplies and demands.

Integration of Non-Signatory Agencies. The CALFED Agencies intend to work with Federal and State agencies that implement other programs that relate to CALFED's mission. While these agencies will not serve as part of the governing structure or incorporate their programs into CALFED, the CALFED Agencies will coordinate their implementation of the CALFED programs with these non-CALFED programs. The CALFED Executive Officer and staff will coordinate with the other agencies' programs and identify conflicts as soon as possible. In some cases, CALFED Agencies or a successor agency may establish contractual relationships with non-CALFED Agencies to implement certain CALFED programs.

Environmental Documentation. The CALFED Agencies will fulfill their respective legal responsibilities for environmental analysis, documentation and permitting pursuant to NEPA, CEQA and all other environmental laws. As indicated below, the CALFED

Agencies and/or the new CALFED Commission will complete the necessary programmatic and project-specific analysis of programs and projects.

Permit Clearinghouse. The CALFED Agencies will establish a clearinghouse for obtaining the necessary permits and approvals for CALFED Program implementation. This permit clearinghouse will be established by December 2000.

Adaptive Management/Science. The CALFED Agencies will use science-based adaptive management in the implementation of the CALFED Program.

Beneficiaries Pay. A fundamental philosophy of the CALFED Program is that costs should, to the extent possible, be paid by the beneficiaries of the program actions.

Compliance With Water Rights Laws. The CALFED Agencies will comply with California's water rights laws, including area-of-origin statutes, applicable to their respective actions. Nothing in this ROD is intended to affect existing water rights or water right holders. In the few areas where CALFED Agencies may propose changes to California law (e.g., transfers, appropriate water use measurement), the CALFED Agencies will work with all interested parties potentially affected by such changes in developing legislative proposals.

Project Operations. In order to promote more efficient water project operations, the operators of the State Water Project (SWP) and Central Valley Project (CVP) will continue to meet regularly with the fishery agencies through the CALFED Operations Group (Ops Group) which has been re-established in the Implementation MOU.

Coordinated Operation Agreement. DWR and Reclamation intend to modify the 1986 CVP/SWP Coordinated Operation Agreement (COA) in order to reflect the many changes in regulatory standards, operating conditions and the EWA. DWR and Reclamation will commence renegotiation of the COA by the middle of 2001.

(ROD, pages 32-35)